

APPEAL OF PRISONER

(2)

No. 637 Name सुकसाय
 Father's name हीना नारायणी
 Residence कादरी PS. बागबोर Age 50 वर्ष
 Sentenced to आजीवन कारावास on 12-1-55
 Under Section 302-I.P.C. by मुख्य न्यायिक दफ्तर रायगढ़

It is explained to the prisoner that if he states he wishes to be represented by a legal practitioner the appellate Court will not proceed with the case for seven days unless the legal practitioner appears earlier. If the legal practitioner does not appear within seven days he may not heard at all. if the prisoner states that he does not wish to be represented by legal practitioner the court may proceed at once with the case and will not be obliged to give a hearing to any legal practitioner who should appear.

- 1 Date of Application for copy of Judgement _____
- 2 Date on which copy received _____
- 3 Date on which Appeal sent _____
- 4 Whether the prisoner wishes to be represented or not. _____

No. 637 Name सुकसाय
 Confined in मिला Jail रायगढ़
 No. 77 Dated 12-1-55 199

Forwarded to the प्रधान मुख्य न्यायिक दफ्तर रायगढ़
 to gether with a copy of judgement or order passed in the case for favour of
 transmission to the proper Appellate court.

संलग्न - प्रतिलिपि

Superintendent
Superintendent
District Jail, Raigarh

Date of receipt in _____ Office _____
 Date of receipt of record to accompany the _____
 Memo of Appeal to the Appellate court _____

No. Q/CTM Raigarh Dated 1-2-1995
 Forwarded to the Submitted to Sesans Judge Raigarh

Date of receipt in Appellate court _____

C. B. Bajpai
Chief Judicial Magistrate
RAIGARH (M.P.)
1-2-55

आदेश पत्रक
 Cr. A. No. 826/95
 मामला क्रमांक 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	D.B. : HON'BLE SHRI LAL CHAND BHADOO, J. AND HON'BLE SHRI VIJAY KUMAR SHRIVASTAVA, J. 21-12-2005 Mr. Arun Kochar, Amicus Curiae appears on behalf of the accused/appellant. Mr. Ashish Shukla, Additional Public Prosecutor appears on behalf of the respondent/ State. Heard. <u>ORAL JUDGMENT</u> 1. By this appeal, through Superintendent, District Jail, Raigarh, the accused/appellant Suksai has questioned the legality of judgment of conviction and order of sentence dated 5-1-1995 passed by Sessions Judge, Raigarh in Sessions Trial No.136/94, whereby the learned Sessions Judge, after holding the accused/appellant guilty for commission of the offence under Section 302 of the Indian Penal Code, sentenced him to undergo imprisonment for life.	

[पीछे देखिये]

आदेश पत्रक

मामला क्रमांक — 2 — सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	2. The case of the prosecution, in brief, is that, on 14-3-1994 at about 4 P.M., Sumitrabai was found dead in her kitchen-garden. The accused went to the house of Village Sarpanch Lalmohan enquiring about him where he was not present, but his father Bolaram was present, when Bolaram enquired from the accused as to why he is enquiring about the Sarpanch, then accused disclosed that he is searching for the Sarpanch so that he may take him to Police Station. When Bolaram again enquired from him as to why he wants to go to the Police Station, then he disclosed that he has murdered Sumitrabai, at that time the accused was carrying an iron rod. He further said that, with that iron rod he has murdered Sumitrabai. He requested Bolaram to keep that iron rod otherwise if he will carry that iron rod then the villagers would be frightened, on this, Bolaram kept the iron rod with him. Thereafter, the Sarpanch Lalmohan returned from Patthalgaon. Bolaram informed him about the incident. However, the accused again came and repeated the same story before the Sarpanch. Upon which,	

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक — 3 — सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	Lalmohan went to the Police Station Bagbahar and lodged a report, Ex.P-1 before R.B.Singh, Assistant Sub-Inspector of Police, P.W.-7. Based on that report, Merg Intimation, Ex.P-2 was recorded. R.B.Singh, Assistant Sub-Inspector of Police left for the place of occurrence. On 15-3-1994, after giving notice, Ex.P-3 to the Panchas, he prepared a Panchnama, Ex.P-4 of the dead body of Sumitrabai and sent the body for post mortem examination to Government Hospital, Patthalgaon, where Dr.G.K.Verma, Assistant Surgeon, P.W.-8 conducted post mortem. He noticed 4 injuries on the head, back of the body and on the left shoulder. The weapon of offence was also taken into possession by the Investigating Officer, and after completion of the investigation, a charge-sheet was filed in the Court of Judicial Magistrate, First Class, Dharamjaigarh, who, in turn, committed the case to the Sessions Judge for trial. 3. The prosecution, in order to prove the charge against the accused, examined 9 witnesses. Learned Sessions Judge also	

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आदेश पत्रक

मामला क्रमांक - 4 - सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	recorded statement of the accused under Section 313 of the Code of Criminal Procedure. The accused denied most of the prosecution evidence. However, he admitted that the Lungi was seized from him. 4. Learned Sessions Judge, after hearing the arguments of learned counsel for both the parties, convicted and sentenced the accused as mentioned in para 1 of this judgment. 5. We have heard learned counsel for the parties. Mr. Arun Kochar, learned Amicus Curiae, appearing on behalf of the accused/appellant, has not disputed the fact of homicidal nature of death of Sumitrabai. Apart from that, P.W.-8, Dr.G.K.Verma has stated that, on 15-3-1994, he conducted post mortem on the body of Sumitrabai and found that there was an incised wound on the right side of the head in the size of 3½ inches x ½ inch. The bone was fractured and there was clotted blood on the brain. There was incised wound on the right side of the neck in the size of	

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आदेश पत्रक

मामला क्रमांक - 5 - सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	4 inches x ½ inch. The spine was fractured. There was a contusion on the right side of the head below the injury No.1. There was a contusion on the left shoulder in the size of 2 inches x ½ inch. The cause of death was shock and excessive bleeding on account of the injuries. The nature of death was homicidal. Even from the evidence of P.W.-1, Lal Mohan, P.W.-2, Bolaram and P.W.-4, Vidyadhar, it is clear that, the accused made extra judicial confession before them regarding the commission of the crime in question. Therefore, in view of the extra judicial confession and the medical evidence, it is established that, the death of Sumitrabai was homicidal in nature. 6. As far as involvement of the accused in the crime in question is concerned, there is no direct or ocular evidence in this case. The case rests on the circumstantial evidence i.e. the extra judicial confession made by the accused before the aforesaid prosecution witnesses and the weapon of offence, the crowbar was taken into possession on being produced by P.W.-2, Bolaram. In	

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आदेश पत्रक

मामला क्रमांक - 6 - सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	order to rest the conviction based on the circumstantial evidence, Hon'ble the Apex Court, in the matter of <u>Dhananjoy Chatterjee vs. State of W.B., reported in (1994) 2 SCC 220</u>, has laid down the law relating to appreciation of circumstantial evidence as under : - "In a case based on circumstantial evidence, the circumstances from which the conclusion of guilt is to be drawn have not only to be fully established but also that all the circumstances so established should be of a conclusive nature and consistent only with the hypothesis of the guilt of the accused. Those circumstances should not be capable of being explained by any other hypothesis except the guilt of the accused and the chain of the evidence must be so complete as not to leave any reasonable ground for the belief consistent with the innocence of the accused. It needs no reminder that legally established circumstances and not merely indignation of the court can form the basis of conviction and the more serious the crime, the greater should be the care taken to scrutinize the evidence lest suspicion takes the place of proof." 7. Now, we shall proceed to examine the evidence produced by the prosecution as to whether the evidence stood upto	

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आदेश पत्रक

मामला क्रमांक सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	the test laid down by Hon'ble the Apex Court in the above matter. P.W.-2, Bolaram has stated that, he was at his residence. At about 4 O'clock in the evening, the accused Suksai came to his house and he was enquiring about the Sarpanch, then this witness disclosed that the Sarpanch has gone to Patthalgaon. The accused further disclosed that he is searching for the Sarpanch because he wants to take him to Police Station as he has committed murder of Sumitrabai. He was also carrying an iron rod in his hand and said that it should be kept with this witness because if he will carry the same the villagers would be frightened. At about 5 to 6 P.M., the Sarpanch Lalmohan, the son of this witness returned from Patthalgaon, then this witness disclosed the above fact to him, thereafter, the Sarpanch, along with some other persons, went to the place where the dead body of Sumitrabai was lying. The above evidence has been corroborated by P.W.-1, Lalmohan, the Sarpanch. P.W.-1, Lalmohan, the son of Bolaram has stated that, after sometime the accused again came to his house and made extra judicial confession before him that he has committed the	

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आदेश पत्रक

मामला क्रमांक

8

सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	murder of Sumitrabai, and thereafter they went to the Police Station, Bagbahar and lodged the report, Ex.P-1, which bears his signature. P.W.-3, Jageshwar alias Pitar has stated that, when he returned in the evening and saw the body of his mother in the kitchen-garden, then he was informed by the Sarpanch that the accused has committed the murder of his mother. P.W.-4, Vidyadhar has also corroborated the evidence of P.W.-1, Lalmohan and P.W.-2, Bolaram that the accused made extra judicial confession before the Village Sarpanch Lalmohan and he also handed over the iron rod to Bolaram. Nothing has been elicited in the cross-examination of these witnesses indicating that their evidence is not trustworthy. All the three witnesses i.e. P.W.-1, Lalmohan, P.W.-2, Bolaram and P.W.-4, Vidyadhar are independent witnesses and there is no reason before them to implicate the accused in a false case. Moreover, P.W.-2, Bolaram has stated that, the accused handed over the crowbar to him and it was taken into possession by the Police Officer from him under Ex.P-7, and this has also been corroborated by P.W.-1, Lalmohan.	

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आदेश पत्रक

मामला क्रमांक - 9 - सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी जजिस्ट्रार के अन्तिम आदेश
	The extra judicial confession can be relied upon if the same is voluntary and true. Nothing has come on record that the accused made the extra judicial confession before these three witnesses on account of any threat, promise or inducement. As far as the truthfulness of the extra judicial confession is concerned, P.W.-1, Lal Mohan has stated that, immediately after hearing about the murder of Sumitrabai, he, along with the villagers, left for the scene of occurrence and saw the body of Sumitrabai lying in her kitchen-garden, and thereafter he reported the matter to the Police Station. Therefore, the extra judicial confession stands corroborated by the verification of facts by these witnesses when they went to see the body of Sumitrabai where the accused said to have attacked Sumitrabai and committed her murder. Moreover, the weapon of offence i.e. the crowbar was also handed over by the accused to Bolaram and in turn same was handed over to Police by Bolaram under Ex.P-7. About the four injuries, which were found on the body of Sumitrabai, P.W.-8, Dr.G.K.Verma has stated that, at the request of the Police Station, Bagbahar, he examined the	

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आदेश पत्रक

मामला क्रमांक -10- सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	crowbar, the weapon of offence on 21-3-1994 and after examination he was of the opinion that the injuries, which were found on the body of Sumitrabai, could be caused by the weapon of offence, the crowbar, and his report is Ex.P-15A. Therefore, we are of the considered opinion that, the extra judicial confession made by the accused inspires the confidence of the Court and conviction can be based on that extra judicial confession coupled with the recovery of the crowbar and the medical evidence. Therefore, we do not find any ground to interfere with the finding of the trial Court convicting and sentencing the accused for committing the murder of Sumitrabai. 8. In the result, there is no force in this appeal. The same is liable to be dismissed and is dismissed.	
	Sd/- L.C. Bhadoo Judge	Sd/- V.K. Shrivastava Judge

G.Singh

[पीछे देखिये]